

EXHIBIT A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

PAUL BOWARY, M.D.,

Plaintiff,

v.

UNITED STATES MEDICAL LICENSING
EXAMINATION, NATIONAL BOARD OF
MEDICAL EXAMINERS, and THE
FEDERATION OF STATE MEDICAL
BOARDS OF THE UNITED STATES, INC.,

Defendants.

Case No. 1:21-cv-00278-JJM-LDA

SECOND AFFIDAVIT OF SUSAN DOUGLAS TAYLOR, ESQ.

SUSAN DOUGLAS TAYLOR, ESQ. deposes and says as follows under the pain and penalties of perjury.

1. I am an attorney admitted to practice law in Washington, D.C. and Washington State.
2. I specialize in immigration law and I have been retained by Dr. Paul Bowary, M.D. with respect to his immigration status.
3. I previously submitted an affidavit (dated August 1, 2021) in this proceeding in support of Dr. Paul Bowary's motion for a preliminary injunction (the "First Taylor Aff.") and I attended the hearing on August 30, 2021, at which time the Court granted, in part, Plaintiff's motion for a preliminary injunction.
4. I am submitting this affidavit to place additional facts before the Court in Support of Plaintiff's Second Motion For Entry of An Order Reflecting The Court's Ruling On Plaintiff's

Motion For Preliminary Injunction, and in Opposition to the Defendant's Motion to Vacate the Preliminary Injunction.

5. I have personal knowledge of the facts and circumstances stated below. Where I do not have personal knowledge, I am relying on the Affidavit of Dr. Bowary, or prior proceedings in this case, or on documents shown to me.

Background

6. When someone seeks a benefit, in terms of immigration status, from the U.S. Citizenship and Immigration Services ("US CIS"), the paperwork that is filed with the agency will be called either an Application or a Petition. When the person receiving the benefit (immigration status) is the person who is filing the paperwork, we call that an Application. When the person or entity, such as a corporation, who is filing the paperwork is seeking the benefit (immigration status) for another person, the paperwork is called a Petition. In Dr. Bowary's situation, employers who file petitions for his H-1B status are called Petitioners; Dr. Bowary is called a Beneficiary.

7. Legal representation in these situations can be complicated. Because of the potential for a conflict of interest between the Petitioner and the Beneficiary, it is common that the two parties will retain different counsel. Counsel for the two parties often do not communicate. I represent Dr. Bowary and advise him on his immigration status. I have not filed any Petitions or Applications on his behalf.

8. The Beneficiary of a Petition has no standing to file a request under the Freedom of Information Act; only the Petitioner has that standing. A Beneficiary has no standing to inquire as to the status of his case. [REDACTED]

[REDACTED]

SECOND AFFIDAVIT OF SUSAN DOUGLAS TAYLOR, ESQ.

**USMLE's Findings Negatively Impacted Dr. Bowary's
Employment at CNEMG and his Immigration Status.**

9. Attached hereto as Exhibit 1 is a letter dated March 11, 2021 from CNEMG (also known as Butler Hospital) to Dr. Bowary advising him that his employment had been terminated. The letter from CNEMG states, among other things, that the termination was based on a communication from USMLE. This termination initiated a 60-day grace period in which he had to find a new employer who would file a Petition for a Change of Employer or leave the United States.

10. Dr. Bowary was able to secure employment with a new employer. As explained in my prior affidavit, the new employer filed a timely immigration petition with US CIS on May 7, 2021. The filing of this petition permitted Dr. Bowary to begin employment with the new employer during the pendency of the petition, and until the case is decided. *See* § 214 (n) of the Immigration & Nationality Act (INA); 8 U.S.C. § 1184 (n).

11. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

SECOND AFFIDAVIT OF SUSAN DOUGLAS TAYLOR, ESQ.

13. On August 30, 2021, the Court held a hearing on Dr. Bowary's motion for a preliminary injunction. I attended the hearing. Although no written order has yet been entered, as I understand the Court's ruling, it was the Court's intent that Plaintiff should be allowed to remain in the United States during the pendency of the above captioned matter, so that he may work and assist in the presentation of his case and, if applicable, during the pendency of proceedings pertaining to the medical license issued to Plaintiff by the Rhode Island Department of Health. I understood it to be the Court's further intention to issue any subsequent rulings as may become necessary to ensure Plaintiff's continued presence and ability to work in the United States during the pendency of these proceedings. *See* Transcript of August 30, 2021 Hearing, at p. 37, line 4 through p. 38, line 18.

14. Thus, I believe that it was also the Court's intent – even if not specifically articulated by the Court on August 30, 2021 – that the current visa petition, and any future visa petitions or applications, should not be denied or prejudiced by USMLE's conduct in reporting the results of its flawed CIR proceeding and of the subsequent appeal to the USMLE Composite Committee.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

SECOND AFFIDAVIT OF SUSAN DOUGLAS TAYLOR, ESQ.

16. As discussed at the hearing on August 30, 2021, I anticipated that Dr. Bowary's new employer would receive a Request for Evidence ("RFE") from US CIS. In my experience as an immigration lawyer for over 33 years, an RFE is issued when there are important questions that could affect whether a visa petition will be approved. An RFE is viewed as US CIS giving the petitioner one final opportunity to provide information to persuade US CIS not to deny the petition.

17. The RFE was issued by US CIS on October 13, 2021. *See* Exhibit 2 attached hereto.¹ The response is due on January 10, 2022. No extensions are allowed.

■ [REDACTED]

[REDACTED]

[REDACTED]

■ [REDACTED]

19. [REDACTED]

[REDACTED]

[REDACTED]

■ [REDACTED]

[REDACTED]

[REDACTED]


■ [REDACTED]

[REDACTED]

[REDACTED]

¹ The RFE has been redacted to protect the identity of Dr. Bowary's current employer.

[illegible]


Susan Douglas Taylor, Esq.

SECOND AFFIDAVIT OF SUSAN DOUGLAS TAYLOR, ESQ.

EXHIBIT 1

**Care New England
Medical Group**

A MEMBER OF
Care New England

45 Willard Avenue
Providence, Rhode Island 02905
carenewengland.org

March 11, 2021

Paul Bowary, M.D.
20 Mission Place
Providence, RI 02908

Re: Employment

Dear Dr. Bowary:

I write to inform you that in accordance with paragraph 1 of the First Amendment to the Employment Agreement between you and Care New England dated November 24, 2020, we are terminating your employment effective immediately. This is an unfortunate circumstance but we have received the decision from the Composite Committee of the USMLE and we have concluded that this is necessary.

Very truly yours,



Bryan Liese

EXHIBIT 2

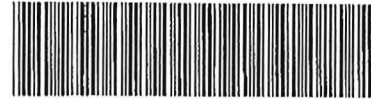
October 13, 2021

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
California Service Center
Laguna Niguel, CA 92677-0590



U.S. Citizenship
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Services

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]



[REDACTED]



[REDACTED]

Form I-129, Petition for a Nonimmigrant Worker

REQUEST FOR EVIDENCE

IMPORTANT: THIS NOTICE CONTAINS YOUR UNIQUE NUMBER. THE ORIGINAL NOTICE MUST BE SUBMITTED WITH THE REQUESTED EVIDENCE.

You are receiving this notice because U.S. Citizenship and Immigration Services (USCIS) requires additional evidence to process your form. Please provide the evidence requested below. Include duplicate copies if you are requesting consular notification.

Your response must be received in this office by January 10, 2022.

Please note that you have been allotted the maximum period allowed for responding to a Request for Evidence (RFE). The time period for responding cannot be extended. Title 8, Code of Federal Regulations (8 CFR) § 103.2(b)(8)(iv). Because many immigration benefits are time sensitive, you are encouraged to respond to this request as early as possible, but no later than the deadline provided above. If you do not respond to this notice within the allotted time, your case may be denied. The regulations do not provide for an extension of time to submit the requested evidence.

You must submit all requested evidence at the same time. If you submit only some of the requested evidence, USCIS will consider your response a request for a decision on the record. 8 CFR § 103.2(b)(11).

If you submit a document in any language other than English, the document must be accompanied by a full and **complete** English translation. The translator must certify that the translation is accurate and he or she is competent to translate from that language to English. **If you submit a foreign language translation in response to this request for evidence, you must also include a copy of the foreign language document.**

Processing of your Form I-129 will resume upon receipt of your response. If you have not heard from USCIS within **60 days of responding**, you may contact the USCIS Contact Center at **1-800-375-5283**. If you are hearing impaired, please call the USCIS Contact Center TDD at **1-800-767-1833**.

H-1B Specialty Occupation Worker - Introduction

On May 7, 2021, your organization, [REDACTED] (petitioner, petitioning organization, or you), filed a Form I-129, Petition for a Nonimmigrant Worker (Form I-129) with U.S. Citizenship and Immigration Services (USCIS), seeking to classify [REDACTED] (beneficiary) as an H-1B specialty occupation worker.

The H-1B classification applies to individuals who will perform services in a specialty occupation. A specialty occupation is one that requires theoretical and practical application of a body of highly specialized knowledge, and attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

You seek a change of employer and requested that USCIS extend the beneficiary's stay.

[REDACTED]

To process your petition and determine if you and the beneficiary are eligible, additional information is required. This request provides suggested evidence that you may submit to satisfy each eligibility criteria described below. You may:

- Submit one, some, or all of these items;
- Submit none of the suggested items and instead submit other evidence to satisfy the request;
- Explain how the evidence in the record already establishes eligibility; and/or
- Request a decision based on the record.

Note, however, that as the petitioner, you are responsible for providing evidence that demonstrates that you and the beneficiary meet all requirements. Evidence must show that all parties were eligible for the requested benefit when you filed the petition by a preponderance of the evidence.

Do not include with your response copies of documentation previously submitted.

If you are submitting evidence in response to this request, USCIS recommends that you submit:

- An index of the evidence and include corresponding tabs for each section of evidence.
- Clear and legible copies of the evidence. If legible copies are not possible, you may submit the original documents. Original documents, however, will be returned only if requested.

USCIS checks all petitions filed for this classification in its Validation Instrument for Business Enterprises (VIBE) system. VIBE uses commercially available data to validate basic information about organizations petitioning to employ foreign workers. For more information about this program, visit the USCIS website at www.uscis.gov/VIBE.

[REDACTED]

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